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| 10/705,349 | 11/10/2003 | Kenneth Shelley | 2590.001 | 4634 |

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| EXAMINER | |
|---|---|
| MONIKANG, GEORGE C | |
| **ART UNIT** | **PAPER NUMBER** |
| 2615 | |

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/705,349 | SHELLEY ET AL. | |
| | Examiner | Art Unit | |
| | George C. Monikang | 2615 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *10 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/8/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 4 & 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Namaky et al, US Patent 7,135,964 B2.

Re Claim 1, Namaky et al discloses a gauge-based instrument for measuring the sound pressure within a vehicle (*fig. 1; col. 4, line 53 through col. 5, line 4*) comprising: a cylindrical gauge housing (*fig. 1*), said cylindrical gauge housing having a front portion, a rear portion and a diameter (*fig. 1*), said front portion constructed and arranged for securement of a faceplate (*fig. 1*); a faceplate, said faceplate having sound pressure level markings thereon (*fig. 1*), said markings being visible through said front portion of said housing (*fig. 1*); a gauge motor disposed adjacent to said faceplate (*fig. 1: needle is controlled by gauge motor*); a signal processing means for receiving a signal indicative of the sound pressure level within said vehicle (*fig. 4: 112; fig. 5: 212*), said circuit controlling said gauge motor based on said signal (*col. 6, lines 59-63*); a pointer extending out of said gauge motor and movable by said gauge motor (*fig. 1:*

*needle is controlled by gauge motor*); wherein said sound pressure level gauge is mountable within a standard gauge mount (*col. 9, lines 30-32; claim 1*).

Re Claim 4, Namaky et al discloses a vehicular sound pressure instrument as set forth in claim 1 wherein said signal processing means is adapted to store a peak sound pressure level during operation of said vehicle (*fig. 4: 112; col. 5, lines 5-17*); wherein said peak sound pressure may be recalled and displayed on said faceplate during and after operation of said vehicle (*fig. 4: 112; col. 5, lines 5-17*).

Re Claim 8, Namaky et al discloses a vehicular sound pressure instrument as set forth in claim 1 wherein said faceplate includes a digital display for digitally indicating said sound pressure level within said vehicle (*fig. 5: 218*).

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2, 3, 15 & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namaky et al, US Patent 7,135,964 B2 as applied to claim 4 above, in view of Klein, US Patent 4,217,625.

Re Claim 2, Namaky et al discloses a vehicular sound pressure instrument as set forth in claim 1 but fails to including a pointer light source to emit light through said pointer as said pointer is pivoted by said gauge motor. However, Klein does (*abstract*).

Taking the combined teachings of Namaky et al and Klein as a whole, one skilled in the art would have found it obvious to modify the vehicular sound pressure instrument of Namaky et al with including a pointer light source to emit light through said pointer as said pointer is pivoted by said gauge motor as taught in Klein (*abstract*) so that the faceplate could be lighted without generating heat.

Re Claim 3, the combined teachings of Namaky et al and Klein disclose a vehicular sound pressure instrument as set forth in claim 2 wherein said light source is chosen from a group consisting of light bulbs, Light Emitting Diodes and Electro-luminescence, wherein said light source emits light of a different wavelength such that said light source can be used to identify different sound level conditions (*Klein, abstract*).

Claim 15 has been analyzed and rejected according to claim 2.

Claim 16 has been analyzed and rejected according to claim 3.

5. Claims 5 & 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namaky et al, US Patent 7,135,964 B2 as applied to claim 4 above, in view of Lang, US Patent Pub. 2002/0101457 A1.

Re Claim 5, Namaky et al discloses a vehicular sound pressure instrument as set forth in claim 4 but fails to disclose wherein said front portion of said cylindrical gauge housing is constructed and arranged to include a rotating bezel, said rotating bezel having a larger diameter than said cylindrical housing diameter; wherein rotation of said bezel in a first direction recalls said peak sound pressure level and rotation of said bezel in a second direction resets said peak sound pressure to zero. However, Lang does (*para 0024, 0026 & 0028*).

Taking the combined teachings of Namaky et al and Lang as a whole, one skilled in the art would have found it obvious to modify the sound pressure instrument of Namaky et al with wherein said front portion of said cylindrical gauge housing is constructed and arranged to include a rotating bezel, said rotating bezel having a larger diameter than said cylindrical housing diameter; wherein rotation of said bezel in a first direction recalls said peak sound pressure level and rotation of said bezel in a second direction resets said peak sound pressure to zero as taught in Lang (*para 0024, 0026 & 0028*) so that the gauge structure would be held in place.

Claim 9 has been analyzed and rejected according to claim 5.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Namaky et al, US Patent 7,135,964 B2 as applied to claim 4 above, in view of Traylor, US Patent Pub. 2003/0176962 A1.

Re Claim 6, Namaky et al discloses a vehicular sound pressure instrument as set forth in claim 4 wherein said faceplate is constructed and arranged to include at least one switch (*col. 7, lines 24-31*); but fails to disclose wherein operation of said at least one switch in a first mode recalls said peak sound pressure level and operation of said at least switch in a second mode resets said peak sound pressure to zero. However, Traylor does (*para 0067 & 0069*).

Taking the combined teachings of Namaky et al and Traylor as a whole, one skilled in the art would have found it obvious to modify the vehicular sound pressure instrument as set forth in claim 4 wherein said faceplate is constructed and arranged to include at least one switch (*col. 7, lines 24-31*) of Namaky et al with wherein operation of said at least one switch in a first mode recalls said peak sound pressure level and operation of said at least switch in a second mode resets said peak sound pressure to zero as taught in Traylor (*para 0067 & 0069*) so that a user can record different sound measurements.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Namaky et al, US Patent 7,135,964 B2 as applied to claim 4 above, in view of Campbell, Jr. et al, US Patent 3,711,767.

Re Claim 7, Namaky et al discloses a vehicular sound pressure instrument as set forth in claim 1 but fails to disclose wherein said faceplate markings indicate decibels. However, Campbell, Jr. et al does (*fig. 20 & 25; col. 20, lines 19-35*).

Taking the combined teachings of Namaky et al and Campbell, Jr. as a whole, one skilled in the art would have found it obvious to modify the vehicular sound pressure instrument of Namaky et al with wherein said faceplate markings indicate decibels as taught in Campbell, Jr. et al (*fig. 20 & 25; col. 20, lines 19-35*) so that the device could be utilized in car sound competitions.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Namaky et al, US Patent 7,135,964 B2 as applied to claim 1 above, in view of Durnen, US Patent 6,672,178 B2.

Re Claim 10, Namaky et al discloses a vehicular sound pressure instrument as set forth in claim 1 but fails to disclose wherein said cylindrical housing is constructed and arranged for mounting in a pod type gauge cluster mount; wherein said pod type gauge cluster mount is adapted to mount on the A-pillar of said vehicle. However, Durnen does (*fig. 1-4*).

Taking the combined teachings of Namaky et al and Durnen as a whole, one skilled in the art would have found it obvious to modify the vehicular sound pressure instrument of Namaky et al with wherein said cylindrical housing is constructed and arranged for mounting in a pod type gauge cluster mount; wherein said pod type gauge

cluster mount is adapted to mount on the A-pillar of said vehicle as taught in Durnen (*fig. 1-4*) so that the gauge can adjust to any viewing angle after it has been mounted.

Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namaky et al, US Patent 7,135,964 B2 as applied to claim 1 above, in view of Durnen, US Patent 6,672,178 B2.

Re Claim 11, Namaky et al discloses a vehicular sound pressure instrument as set forth in claim 1 but fails to disclose wherein said cylindrical housing is constructed and arranged for mounting in a cup type gauge mount; wherein said cup type gauge mount is adapted to mount on the dash of said vehicle. However, Durnen does (*col. 1, lines 34-37*).

Taking the combined teachings of Namaky et al and Durnen as a whole, one skilled in the art would have found it obvious to modify the vehicular sound pressure instrument of Namaky et al with wherein said cylindrical housing is constructed and arranged for mounting in a cup type gauge mount; wherein said cup type gauge mount is adapted to mount on the dash of said vehicle as taught in Durnen (*col. 1, lines 34-37*) so the gauge mounting cup with various types and sizes could be mounted in various locations.

Claim 12 has been analyzed and rejected according to claim 11.

Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namaky et al, US Patent 7,135,964 B2 as applied to claim 1 above, in view of Ham, US Patent 7,123,737 B2.

Re Claim 13, Namaky et al discloses a vehicular sound pressure instrument as set forth in claim 1 but fails to disclose wherein said circuit means includes at least one microphone, said microphone being positioned at about ear level within said vehicle, said microphone constructed and arranged for electrical communication with said signal processing means. However, Ham does (*col. 6, lines 4-18*).

Taking the combined teachings of Namaky et al and Ham as a whole, one skilled in the art would have found it obvious to modify the vehicular sound pressure instrument of Namakey at al with wherein said circuit means includes at least one microphone, said microphone being positioned at about ear level within said vehicle, said microphone constructed and arranged for electrical communication with said signal processing means as taught in Ham (*col. 6, lines 4-18*) to more accurately represent the listening environment within the vehicle.

Claim 14 has been analyzed and rejected according to claim 13.

Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Namaky et al, US Patent 7,135,964 B2 as applied to claim 1 above, in view of Durnen, US Patent 6,672,178 B2.

Re Claim 17, Namaky et al discloses a vehicular sound pressure instrument as set forth in claim 1 but fails to disclose wherein said cylindrical housing diameter is about two and one-sixteenth inches. However, Durnen does (*col. 1, lines 26-28*).

Taking the combined teachings of Namaky et al and Durnen as a whole, one skilled in the art would have found it obvious to modify the vehicular sound pressure instrument of Namaky et al with wherein said cylindrical housing diameter is about two and one-sixteenth inches as taught in Durnen (*col. 1, lines 26-28*) so that the gauge can be mounted in apillar pods or cups.

Claim 18 has been analyzed and rejected according to claim 17.

Claim 19 has been analyzed and rejected according to claims 1 & 3.

Claim 20 has been analyzed and rejected according to claims 1, 3 & 4.

Claim 21 has been analyzed and rejected according to claims 1, 3, 4 & 5.

Claim 22 has been analyzed and rejected according to claims 1, 3, 4 & 6.

Claim 23 has been analyzed and rejected according to claims 1, 3 & 7.

Claim 24 has been analyzed and rejected according to claims 1, 3 & 8.

Claim 25 has been analyzed and rejected according to claims 1, 3 & 9.

Claim 26 has been analyzed and rejected according to claims 1, 3 & 10.

Claim 27 has been analyzed and rejected according to claims 1, 3 & 11.

Claim 28 has been analyzed and rejected according to claims 1, 3 & 12.

Claim 29 has been analyzed and rejected according to claims 1, 3 & 13.

Claim 30 has been analyzed and rejected according to claims 1, 3 & 14.

Claim 31 has been analyzed and rejected according to claims 1, 3 & 15.

Claim 32 has been analyzed and rejected according to claims 1, 3 & 16.

Claim 33 has been analyzed and rejected according to claims 1, 3 & 17.

Claim 34 has been analyzed and rejected according to claims 1, 3 & 18.

## ***Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Monikang whose telephone number is 571-270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

George Monikang

3/19/2007

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